

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Carl J. WHEELER

Appl. No.: 10/748,853

Filed: December 30, 2003

For: **Complex Cationic Lipids Having
Quaternary Nitrogens Therein**

Confirmation No.: 6433

Art Unit: 1614

Examiner: GRAFFEO, Michel

Atty. Docket: 1530.0260002/JMC/CMB

Reply to Restriction Requirement

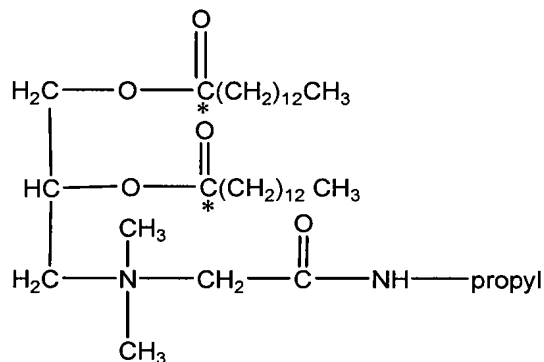
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated February 23, 2007, requesting an election of one invention to prosecute in the above-referenced patent application, Applicant hereby provisionally elects to prosecute the invention of Group I, and elect DMRIE carboxylate propyl amide as the species. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed. This election is made with traverse.

The Office has alleged that the species elected on April 14, 2006 is not present in the instant claims and the Office now requires a further evaluation of the Group and Species election. Applicants respectfully disagree with the Office's arguments in several respects.

First, the Office has indicated that the Office's interpretation of "DMRIE" is different than the Applicants'. The Office fails to acknowledge, however, that Applicants have selected "DMRIE carboxylate propyl amide," as exemplified in Example 3. The structure of DMRIE carboxylate propyl amide is:



Second, the Office has alleged that -C(O)- in the R₁ and R₂ radicals (i.e., the carbons marked with an asterisk) is not present in the formula of claim 64. Applicants respectfully assert that the Office is incorrect because R₁ and R₂ can both be C₁₋₂₃ acyl, i.e., -C(O)-R, where R = C₁₋₂₃.

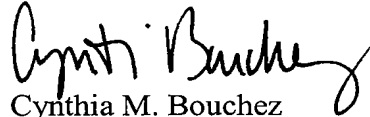
Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

If the Examiner believes that a telephone conference would expedite prosecution of the above-identified application, the Examiner is invited to contact the undersigned at 202-772-8861.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Cynthia M. Bouchez
Attorney for Applicant
Registration No. 47,438

Date: April 4, 2007

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

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